

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1190 of 1996

in

SPECIAL CIVIL APPLICATION No 3086 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE H.L.GOKHALE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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SEVANTIBHAI LALLURAM RAVAL

Versus

STATE OF GUJARAT

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Appearance:

MRS VASAVDATTA BHATT for Petitioner  
MR HARIN P RAVAL for Respondent No. 3  
MR DHAVAL DAVE, AGP for Respondent Nos.1 and 2.

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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE H.L.GOKHALE

Date of decision: 14/03/97

ORAL JUDGEMENT

Admitted. Mr.Harin P.Raval, learned counsel for

the Respondent no.3 and Mr.D.C.Dave, AGP for the Respondent Nos.1 and 2 waive service of notice. With the consent of parties, the appeal is taken up to day for final hearing.

1. This Letters Patent Appeal is filed against an order passed by the learned Single Judge in Misc. Civil Application No. 1537 of 1996. In Special Civil Application No. 3086 of 1984, Rule was issued and the matter was placed for final hearing. When the matter was called out for hearing, the learned counsel for the petitioner was not present and the matter was dismissed for non-prosecution. When the petitioner's counsel came to know about that fact, Misc. Civil Application No.1537 of 1996 was filed praying therein to restore the main matter and to decide the same in accordance with law. It was stated that neither the petitioner nor his advocate was aware of the matter being dismissed for default. The learned Single Judge, however, did not restore the matter observing that Ms.Vasavadatta had not filed her V.P. and though two advocates had filed Vakalatnama, they had not withdrawn their appearance and neither of them remained present. Ms. Vasavadatta was engaged only on August 23, 1996 whereas the matter was dismissed on July 26, 1996.

In the facts and circumstances of the case, in our opinion, and in the larger interest of justice, the matter deserves to be restored. Letters Patent Appeal is accordingly allowed, the orders passed in SCA and MCA are set aside. The matter must go back to the learned Single Judge to decide the same afresh after hearing the parties. The appeal is accordingly allowed with no order as to costs.

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